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supra. The duty at common law to take some means to effect a recovery is equally incumbent with the statutory duty to take certain specific means. It would seem, therefore, that in the principal case the defendant having done nothing, the court should not have concerned itself with his belief, and the question which should have gone to the jury was, did the neglect of the defendant to do anything cause the death of the deceased.

FALSE IMPRISONMENT FOLLOWED BY ILLEGAL ACTS OF OFFICERS.—The United States Circuit Court of Appeals for the Second Circuit has recently had occasion to review the authorities governing the measure of damages in a case of false imprisonment. *Knickerbocker Steamboat Co. v. Cusack* (1905) 32 N. Y. Law J. 1571. Under the general rule a person causing a wrongful imprisonment is liable for the natural and probable consequences of the imprisonment; *Edgil v. Francis* (1840) 9 L. J. (N. S.) C.P. 233; but illegal acts of officers of the law are not natural and probable consequences of an arrest, and the person who causes an originally lawful arrest is held to be not liable for those acts. *So. Pac. Co. v. Hamilton* (1893) 54 Fed. 468. In the principal case, however, the court had to consider the effect of an illegal detention by a magistrate consequent upon an arrest of the plaintiff originally unlawful. Where the defendant has specifically directed an officer to take the plaintiff into custody there seems to be no difficulty in charging the defendant with liability until the arrest is continued by an officer who exercises an independent discretion; and where the plaintiff's discharge is coincident with the exercise of this discretion damages would run until the discharge, as in *Shea v. Man. Ry.* (N. Y. 1890) 15 Daly 528, and in *Roun v. Street Ry.* (1885) 34 Hun. 471. But in *Bath v. Metcalf* (1887) 145 Mass. 274, a defendant seems to be held liable for subsequent independent illegal acts of an officer. In *Murphy v. Countiss* (Del. 1833) 1 Har. 143, cited in support of *Bath v. Metcalf*, there was no evidence that the imprisonment continued after an independent illegal act of the magistrate; and in *Powell v. Hodgett* (1826) 2 Car. & P. 432, also cited in *Bath v. Metcalf*, the facts seem to indicate that the detention by the constable was at the direct instigation of the defendants. The act of a magistrate is the result of the independent exercise of his judicial mind, and it is difficult to see why the unlawfulness of the original arrest should make his action a natural and probable consequence when it would not be if the original arrest had been lawful. No one is liable for the unforeseen illegal act of another. *Brady v. Shepard* (1899) 42 N. Y. App. Div. 24.

The court in the principal case is not agreed as to the law of liability applicable to a case where the evidence shows no action by the defendant other than such as is necessary to place the person arrested under the control of the magistrate; but the present defendant is held liable on the ground that the proceedings subsequent to the arrest were the direct result of the unjustified urgency of the defendant. It is difficult to see how the wrongful act of the magistrate can be a direct result of urgency in causing an arrest; *Mandeville v. Guernsey* (1865) 51 Barb. 99, 103; nor would it seem to be the direct result of filing a

complaint. A complainant is responsible for the complaint he actually makes and for such action thereon as may be lawful and proper in view of it. *Boeger v. Langenberg* (1888) 97 Mo. 390, 395. But the complainant has no control over the justice; he merely calls upon the magistrate to exercise his jurisdiction, *Brown v. Chapman*, 60 Eng. Com. Law 364, and the action of the judge is the result of the judicial operation of his mind. *Cooper v. Harding* (1845) 7 Q. B. 928. The discretionary act of the magistrate is not the complainant's act, and if that act is unwarranted the complainant is not liable for it in an action for false imprisonment, whether the original arrest was lawful or unlawful. *Holtum v. Lotun* (1834) 6 Car. & P. 726; *Lock v. Ashton* (1848) 12 Q. B. 871; *Newman v. Railroad Co.* (1889) 54 Hun, 335. If, however, a complainant instigates a magistrate to do an act which is not justified, it is held to be not the independent act of the justice, and the complainant is liable. *Curry v. Pringle* (N. Y. 1814) 11 Johns. 444. What constitutes instigation is a difficult question; *Boeger v. Langenberg*, supra; *Cooper v. Harding*, supra; but it is settled that merely filing a complaint is not such instigation, *Langford v. Railroad Co.* (1887) 144 Mass. 431, and it does not appear that in the principal case the defendant did more than this. Whatever influence might be used to induce a police officer to take a person into custody, it would seem that there should be no liability for the magistrate's act unless that too was directly influenced by the complainant.

RESULTING TRUSTS UNDER FRAUDULENT CONVEYANCES.—The courts have always construed very liberally the statutes against fraudulent conveyances. By these statutes conveyances in fraud of "creditors and others" are declared void, but as between the parties they are held to be valid, either when the debtor himself conveys or when he pays the consideration and has the conveyance run to some one else; in either case no trust results; *Proseus v. McIntyre* (1848) 5 Barb. 424; *Stephens v. Heirs of Harrow* (1868) 26 Iowa 458; nor under like circumstances will equity enforce an express trust. *Sweet v. Tinslar* (1867) 52 Barb. 271. By analogy the courts have worked out the same results in cases where the conveyance is made to defeat the purposes of a statute. *Leggett v. Dubois* (N. Y. 1835) 5 Paige Ch. 114; *Redington v. Redington* (Ireland 1794) 3 Ridgeway 106; *Miller v. Davis* (1874) 50 Mo. 572; *Dewhurst v. Wright* (1892) 29 Fla. 223.

In the light of these principles a recent decision in Vermont seems surprising. The plaintiff lent money and took a mortgage running to his son, in order to defeat taxation. When the mortgage became due the property was deeded to the son in lieu of payment. In an action by the father against the son the court held that the son should convey the land to his father, saying that the son held it in a resulting trust. *Monahan v. Monahan* (1904) 59 Atl. 168. It seems clear that inasmuch as the transaction was fraudulent within the terms of the statute, and was also intended to defeat the public policy of the State, *Cox v. Wightman* (1875) reported in *Nichols v. Machine Co.* (1882) 27 Hun 202, the court should have been governed by the cases above. Its decision is put on the narrow ground that when